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Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations: financing of the United Nations peacekeeping operations

Report on the implementation of the reformed procedures for determining reimbursement to Member States for contingent-owned equipment

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the Secretary-General's report of 7 October 1998 on the first full year of implementation of the reformed procedures for determining reimbursement to Member States for contingent-owned equipment (A/53/465), as well as the report of the Phase IV Working Group on Reimbursement of Contingent-owned Equipment (A/C.5/52/39). During its consideration of the reports, the Committee met with representatives of the Secretary-General, who provided additional information.

2. Both reports were submitted pursuant to General Assembly resolutions 50/222 of 11 April 1996 and 51/218 E of 17 June 1997. In paragraphs 1 to 13 of his report, the Secretary-General provided background on the developments leading to its preparation.

3. In this connection, the Advisory Committee recalls that, in its resolution A/50/222, the General Assembly, while deciding to review the operation of the reformed procedures for determining reimbursement to Member States for contingent-owned equipment, had also decided that the review and the report it had requested the Secretary-General to submit should pertain to all elements of the reformed procedures, in particular to those elements of the recommendations of the Working Groups that were not specifically endorsed by the Secretary-General in his report (A/50/807), and requested the Secretary-General, in this regard, to include in the above-mentioned report comparative data on the differences between the adopted system and other proposals contained in the reports of the Secretary-General (A/50/807) and the Advisory Committee (A/50/887).

4. In its resolution A/51/218 E, the General Assembly, *inter alia*, requested the Secretary-General to convene the Phase IV Working Group prior to submitting his report on the first full year of implementation of the reformed procedures. In this connection, the Advisory Committee notes the recommendation of the Special Committee on Peacekeeping Operations contained in its report of 21 May 1998 (A/53/127, para. 76) and recalls that the General Assembly, in paragraph 2 of its resolution 53/58 of 3 December 1998, endorsed the proposals, rules and conclusions of the Special Committee contained in paragraphs 44 to 115 of its report.

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5. At its request, the Advisory Committee was provided with the attached table outlining the recommendations of the Working Group as well as those of the Secretary-General. The Committee recommends that, in order to avoid confusion and prevent misapplication of decisions of the General Assembly, the new contingent-owned equipment arrangements, as approved by the General Assembly, should be annexed to the relevant resolution of the General Assembly.

6. The Advisory Committee, in its observations, comments and recommendations in the paragraphs below, has paid particular attention to those elements on which the Secretary-General and the Working Group differ.

Legally binding aspects of the Memorandum of Understanding (Working Group report, para. 65)

7. With regard to this question, as discussed in the Secretary-General's report (A/53/465, para.15), the Advisory Committee agrees that the final form, including the title used for the document that is negotiated between the United Nations and a troop-contributing country, may vary from the model Memorandum of Understanding to be approved by the General Assembly; however, substantive provisions, as contained in General Assembly resolutions 50/222, 51/218 E and its subsequent relevant resolutions, should remain consistent for all Member States.

Levels of reimbursement for loss or damage in cases of hostile action or forced abandonment (Working Group report, para. 66)

8. The question of levels of reimbursement has been discussed in paragraphs 16, 17, 52 (a) and 53 (d) of the Secretary-General's report. The Advisory Committee's views on the subject have been expressed in paragraphs 12 and 13 of its report (A/50/887) and paragraphs 8 to 10 of its report (A/52/410). The Committee also draws attention to chapter 2, paragraphs 16 to 22, of the Manual on Policies and Procedures concerning Reimbursement and Control of Contingent-owned Equipment of Troop-Contributing Countries Participating in Peacekeeping Missions (the COE Manual).

9. Following current practice in cases of loss or damage resulting from a single hostile action or forced abandonment, the United Nations will assume liability for each and every item of major equipment when the collective generic fair market value equals or exceeds the threshold value of $250,000. The Advisory Committee recalls, as indicated in paragraphs 12 and 13 of its report (A/50/887), that, while the Secretary-General had agreed with the Phase II and III Working Groups to reimbursement for major equipment at or above the generic fair market value of $250,000, he had not agreed to reimbursement of items valued below $250,000 or when collectively the value of those items rose above $250,000. Also in paragraph 13 of A/50/887, the Committee had outlined its views on how to proceed in this regard. The General Assembly, in its resolution 50/222, endorsed the Committee's views as expressed in its report (A/50/887); the Committee had recommended that consideration should be given to the recognition of potential risk of aggregate loss for equipment whose individual value was less than $250,000 by including in the lease rates an additional factor to compensate Member States for potential loss or damage as a result of hostile action or forced abandonment. Accordingly, loss or damage of minor equipment including spare parts due to hostile action or forced abandonment is not separately reimbursed but is included in mission factors. In this connection, the Committee was informed that a mission factor for hostile action/forced abandonment was subsequently established not to exceed 5 per cent of the reimbursement rates of self-sustainment and the spare element (or) of the maintenance rate of the wet lease rate. The application of this factor is determined by the technical survey team at the initiation of a mission.

10. In paragraph 10 of its report (A/52/410), the Advisory Committee stated that it had been informed that annex B, section 6, Loss or damage, paragraph 18, of the contribution agreement would read as follows: "In cases of loss or damage resulting from a single hostile action or forced abandonment, the United Nations will assume liability for each and every item of major equipment when the collective generic fair market value equals or exceeds the threshold value of $250,000". The Advisory Committee was informed that although the model contribution agreement has yet to be approved by the General Assembly, it is being used by the Secretariat.

11. The Secretary-General, in both his current report (A/53/465) and in his presentation to the Phase IV Working Group, proposes a general financial limit on the liability of the United Nations for loss or damage due to hostile action or forced abandonment, (para. 52 (a)) and a method of calculating the amounts to be reimbursed (para. 53 (d)). The Working Group has not recommended a financial limit as indicated in paragraph 66 (b) of its report (A/C.5/52/39). The Working Group recommended that in view of the possibility of large claims, the Secretariat should recommend appropriate measures for handling such claims.

12. The Advisory Committee believes that the procedure to be approved by the General Assembly should be fair to

the troop-contributing countries, but should also provide a practical mechanism by which the United Nations can handle potentially high claims. The Committee points out that, under the new contingent-owned equipment arrangements, all equipment brought to a mission by a troop-contributing country has to have the prior approval of the United Nations. The Committee stresses the need to have the Memorandum of Understanding finalized and signed before the deployment of the contingents and the contingent-owned equipment. The new arrangements call for separate negotiation with troop-contributing countries concerning special equipment. Furthermore, the Committee notes that aircraft and shipping vessels are not included in the contribution agreement and are the subject of separate negotiation between the United Nations and the troop-contributing country concerned.

13. The Advisory Committee notes, however, that, so far, experience by the United Nations in this regard has been limited. Amounts for recent claims range between $500,000 and $15 million, as indicated in annex II to the Secretary-General's report. The Committee notes that six claims totalling $50 million have been submitted in respect of the United Nations Protection Force and the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (A/53/465, para. 47 (c) (ii)).

14. Taking into account the limited experience in processing large claims by the United Nations, and the fact that no budgetary provision is made for contingent liabilities owing to their unpredictability, the Committee is of the opinion that, at this stage, a case has not been made to set a financial limit for loss or damage in cases of hostile action or forced abandonment. The Committee notes that the Secretariat has not formally indicated how such limitations might be set. In this connection, the Committee recommends that the Secretariat should submit proposals to the General Assembly on the handling of large claims. Such proposals should include self or commercial insurance.

15. With respect to the method of calculating amounts to be reimbursed, the Committee agrees with the proposal of the Secretary-General that reimbursement for an item of equipment would be the lesser of the generic fair market value or the residual value of the equipment lost (A/53/465, para. 53 (d)).

United Nations responsibility for loss or damage during transportation (Working Group report, para. 68)

16. This issue has been discussed in paragraphs 19, 20 and 52 (b) of the Secretary-General's report. The Advisory Committee agrees with the course of action proposed by the Secretary-General for implementing the recommendations of the Working Group, and suggests that commercial alternatives be included in the review. The Committee recommends that the results of the review to be carried out in this regard be submitted to the fifty-fourth session of the General Assembly.

Universality of missions factors (Working Group report, para. 69)

17. The Advisory Committee notes from paragraph 21 of the Secretary-General's report that mission factors are established by the Secretariat prior to the start of a mission in order to secure provisions in the budget and establish credible budget estimates. The Committee is of the view that the quality and timeliness of the mission factors and their reliability depend on the expertise employed by the technical survey as well as the time-lapse between the period of the survey and the start of the mission operation. The Committee was informed that changes could be made to the factors at any time at the request of a troop-contributing country even before the three-month period recommended by the Working Group. The Committee was further informed that during 1998 the Secretariat had conducted such a review at the request of a troop-contributing country, before the third month of the mission. The Committee agrees with the position of the Secretariat that, should conditions in the mission area change, the current procedure allows for a review of mission factors even before three months have elapsed.

Establishing dates for applying procedures in current missions (Working Group report, para. 72)

18. The Advisory Committee notes the Working Group's recommendation and the Secretariat's concurrence that a plan be submitted with a cut-off date by which all missions should be operating under the new system. The Committee requests that the Secretary-General expedite preparation of such a plan.

Retroactive implementation (Working Group report, para. 73)

19. With regard to retroactive implementation of the contingent-owned equipment arrangements, as indicated in paragraphs 26 to 28 of the Secretary-General's report, the Advisory Committee agrees with the view of the Working Group that the new procedures are superior to the old in that when fully implemented they will considerably facilitate the handling of claims and payments. However, as pointed out

by the Committee in its report on United Nations peacekeeping operations (A/53/940) and highlighted in the report of the Board of Auditors to the General Assembly on the accounts of the United Nations peacekeeping operations for the financial period ending 30 June 1998 (A/53/5, vol. II), there are certain problems concerning the retroactive application of the new arrangements, although these problems are mainly transitional. The Committee does not believe that any useful purpose would be served by conducting a costly comparative study of the financial implications of the new and the old system for reimbursement of contingent-owned equipment. As indicated in the Secretary-General's report the study can only be completed when all relevant claims have been processed for liquidated or liquidating missions (A/53/465, para. 27). In the opinion of the Committee, this exercise would be largely historical and would not affect what Member States would have negotiated with the United Nations, either based on the old or the retroactive application of the new procedures. The Committee therefore sees little merit in undertaking the study. However, in reports on the liquidation of peacekeeping operations, sufficient data should be made available so as to allow a determination of the impact of the retroactive application of the new contingent-owned equipment arrangements.

Review of major equipment standards (Working Group report, para. 76)

20. The discussion on rates of reimbursement, performance standards and review dates has been reflected in paragraphs 31, 46 and 53 (e) of the Secretary-General's report. The review cycle was indicated in the annex to General Assembly resolution 49/233 A of 23 December 1994.

21. The Advisory Committee notes that, for reasons given in paragraph 92 of the Working Group's report, a change of the review date has been recommended. As indicated in paragraph 45 of his report, the Secretary-General had proposed that the Phase IV Working Group conduct a rate review. The Committee was informed that rate review could not be conducted as originally scheduled.

22. In view of the delay in the consideration of the report of the Working Group and the late submission of the Secretary-General's report, the Advisory Committee was informed by the representatives of the Secretary-General that the date specified in the report of the Working Group, that is 2001, would be acceptable. On enquiry, the Committee was informed by the representatives of the Secretary-General that, with the review date as proposed, the results of the review of performance standards and rates of reimbursement could be available for inclusion in the budget estimates for the year commencing 1 July 2002. However, during discussions with the Committee, the Secretariat advanced the possibility of conducting the review in the spring of 2000. The Committee concurs with this approach and trusts that the results will be reflected in the budgets of peacekeeping operations for the period from 2001 to 2002.

Office supplies (Working Group report, para. 81)

23. While the Advisory Committee endorses the views of the Working Group on revised performance standards, the Committee agrees with the Secretary-General's view, as indicated in paragraph 37 of his report, that, during the next rate review, discussion take place on the issue of reimbursement of office supplies for the entire contingent or for only those troops in administrative posts, as well as the basis for the rate.

Laundry and cleaning (Working Group report, para. 83)

24. The Advisory Committee was informed that, as currently implemented, the rate for laundry and cleaning does not include dry cleaning of operationally required special clothing, hair cutting, tailoring and cobbling; the Working Group agreed to the inclusion of dry cleaning of special clothing in the current rate but not to the inclusion of hair cutting, tailoring and cobbling as recommended by the Secretariat. The Committee notes the view of the Secretariat as indicated in paragraph 39 of the Secretary-General's report.

Tentage and accommodation (Working Group report, para. 84)

25. This issue has been referred to in paragraphs 40 and 53 (a) of the Secretary-General's report. Paragraph 84 of the Working Group's report refers to chapter 3, annex B, paragraph 20, of the COE Manual, which provides that "when the United Nations is unable to provide permanent, semi-rigid, or rigid accommodation for a Contingent after six months in tents, the Contingent will be entitled to receive reimbursement at both the tentage and accommodation self-sustainment rates. This combined rate will continue until personnel are housed to the standard specified under the accommodation rate". The tentage rate is $20 and the accommodation rate is $36. The amount of $36 has also been indicated in the report of the Phase III Working Group

(A/C.5/49/70, appendix II, B), and in the revised model Contribution Agreement (A/51/967 and Corr.1 and 2, annex C).

26. During discussions with the representatives of the Secretary-General, the Committee was informed that the intention of the dual payment was to provide additional funding for the contingent to allow them to build or rent accommodations locally. This rationale is not expressed in any of the published documents and there is no mention of a discomfort factor in any of the background papers. At the present time, the dual payment has not been made to any troop-contributing country. The Committee was informed, however, that there is one case where a troop-contributing country is contesting the issue. The Committee was informed that, with respect to prospective implementation, the notification mentioned in chapter 3, annex B, paragraph 19 of the COE Manual could be dealt with at the time of the negotiation of the Memorandum of Understanding. If the United Nations is not in a position to provide hard wall accommodations at the six-month period, the troop-contributing country should be informed by the Secretariat at the time of the negotiation of the Memorandum of Understanding and the accommodation rate of $36 could be proposed for inclusion in the Memorandum of Understanding.

27. The Advisory Committee notes that in paragraph 85 of its report the Working Group recommended that a mechanism be developed and be made available whereby the Secretariat may request a temporary waiver of the application of this dual payment principle for those short-duration missions where the provision of hard accommodation is demonstrably and clearly impractical and not cost-effective. This gives the impression that the Working Group does recognize that there may be justifiable reasons for the inability of the United Nations to provide the accommodation. The Advisory Committee believes that if the troops are incurring higher accommodation costs after six months in tents or elsewhere, then they should be reimbursed for their actual expenses up to $56, but in no case lower than $36. Should the General Assembly agree with this recommendation, the model Contribution Agreement would need to be amended.

Liability of the United Nations under the lease system

28. This issue has been outlined in paragraphs 47 (b) and 53 (c) of the Secretary-General's report. The issue was also dealt with in paragraph 11 of the Advisory Committee's report (A/50/887). The Secretariat is of the opinion that the insurance factor included in the rates covers these losses and if the cost for these no-fault incidents reverted to the United Nations, it would constitute a double payment. More importantly, the Secretariat cannot make timely payments if the Member States have not provided the funds. The Committee therefore agrees with the position of the Secretary-General, as expressed in paragraph 53 (c) of his report.

Revised COE Manual

29. The Advisory Committee notes that the Phase V Working Group is going to conduct a review of the reimbursement rates in 2001. In paragraph 93 of the Working Group report and paragraph 45 (a) of the Secretary-General's report, it is envisaged that a revised COE Manual should be completed not later than mid-1999. On enquiry, the Committee was informed by the representatives of the Secretary-General that, given the fact that recommendations of the Phase IV Working Group will not be approved by the General Assembly until mid-1999, a practical date for the completion of a revised contingent-owned equipment Manual would be mid-2000. The current version of the Manual would have to be updated prior to meetings of the Phase V Working Group. In the opinion of the Committee, it would seem more practical to wait for the completion of the work of the Phase V Working Group before issuing an updated Manual.

30. Taking into account paragraph 1 of resolution 51/218 E, the Advisory Committee recommends that, after the General Assembly has considered the reports of the Working Group (A/C.5/52/39), the Secretary-General (A/53/465) and the Committee (A/53/944), and taken action, a revised model contribution agreement/memorandum of understanding should be prepared.

Expertise in the review and assessment of the generic fair market value of equipment

31. The Advisory Committee, in its report on United Nations peacekeeping operations (A/53/940), has recommended that the United Nations supplement, as appropriate, its own in-house expertise with the assistance of independent outside expertise in the review and assessment of the generic fair market value of equipment. The Committee recommends that the review be undertaken in 2000 for the results to be reflected in the peacekeeping budgets for the period from 1 July 2001 to 30 June 2002.

Other matters

32. The Advisory Committee draws attention to paragraph 47 of its report A/53/895, in which the Committee had stressed the importance of including in the relevant memoranda of understanding, clear information on the obligations of the Secretariat and Member States, including the five-year period for submission of claims.

33. The Committee also requests that future peacekeeping budgets should include complete information on reimbursement arrangements for troop-contributing countries and that performance reports should provide data on actual amounts paid or to be paid as compared with initial estimates.

Annex

Report of the first full year of implementation of the reformed procedures for determining reimbursement to Member States for contingent-owned equipment

Issue	*Phase IV Working Group's recommendations (A/C.5/52/39)*	*Secretariat recommendations (A/53/465)*
1. Legally binding aspects of the Memorandum of Understanding.	The final form of the Memorandum of Understanding could vary as long as the legally binding aspects of the agreement remain, e.g., letter of understanding or contribution agreement rather than Memorandum of Understanding.	Recommends approval.
2. Dispute resolution.	Formalizes procedures by which the Secretariat's representatives would be contacted in the event of disagreements between troop-contributing countries and the United Nations regarding contingent-owned equipment matters.	Recommends approval.
3. Period of reimbursement.	Reduce the rate for major equipment and self-sustainment during the drawdown period. The revised rate would be 50 per cent of the monthly lease and self-sustainment rates being reimbursed prior to the drawdown.	Recommends approval.
4. Contingent-owned equipment manual.	The review and a revision of the contingent-owned equipment manual to be completed no later than mid-1999.	Recommended approval, however, the delay in the review process and approval of the report of the Secretary-General (A/53/465) and Phase IV Working Group recommendations makes a date of mid-2000 more realistic.
5. United Nations standards of logistic support.	The recommendation of the Working Group to establish standards for logistics support was an issue that had been previously reviewed by the Secretariat, and a programme was already under way within the Field Administration and Logistics Division to establish standards of support for goods and services provided by the United Nations.	Recommends approval.

Issue	*Phase IV Working Group's recommendations (A/C.5/52/39)*	*Secretariat recommendations (A/53/465)*
6. Reimbursement rate for late return of equipment from the mission area.	Troop-contributing countries will be reimbursed at the dry-lease rate for excessive delays (more than 14 days) in the repatriation of its contingent-owned equipment caused by the United Nations.	Recommends approval.
7. Major equipment usage.	A contingent using major equipment, such as a mobile kitchen trailer, will receive only self-sustainment reimbursement for catering. Reimbursement for the equipment would constitute a double payment.	Recommends approval.
8. Relationship between a soldier's kit and self-sustainment.	A standardized mission-specific personal equipment listing be approved prior to deployment to a mission.	Recommends approval.
9. Communications.	Recommending revised performance standards for self-sustainment reimbursement for communications.	Recommends approval.
10. Catering and electrical self-sustainment categories.	Clarified the reimbursement procedures for contingents required to provide support to an observation post or sub-unit away from the base camp.	Recommends approval.
11. Establishing dates for applying procedures in current missions.	A plan be submitted with a cut-off date by which all missions should be operational under the new system. The plan was to be submitted for consideration and approval of the General Assembly by the end of 1998.	Recommends approval in principle. The Secretariat continues working to prepare a plan for transition to the new system. The submission of the plan is dependent upon an overall assessment of the military requirements, which is currently being conducted in coordination with the military advisers and force commanders. The implementation of the revised procedures in missions will have to be accomplished in phases to take into account the useful life of some existing equipment for which countries have been fully reimbursed under the old procedures.

Issue	*Phase IV Working Group's recommendations (A/C.5/52/39)*	*Secretariat recommendations (A/53/465)*
12. Retroactive implementation.	The Secretariat addressed the issue of the cost of the retroactive implementation. The Working Group recommended no change to be made in the current practice of applying the new procedures retroactively. They further recommended the Secretariat prepare a detailed report on the financial implications of retroactive application and present it to the General Assembly.	An accurate evaluation of the cost of the retroactive implementation of the new procedures can only be completed when all relevant claims have been processed for liquidated missions.
13. Office Supplies, explosive ordnance disposal, identification, medical support, laundry and cleaning, field defence stores, and nuclear, bacteriological and chemical agents.	These issues were discussed with a recommendation that they be further reviewed at the Phase V Working Group review of rates and performance standards.	Recommends approval.

Issues requiring additional discussion and decision

Issue	*Phase IV Working Group's recommendations (A/C.5/52/39)*	*Secretariat recommendations (A/53/465)*
14. Financial limitation for claims resulting from losses of contingent-owned equipment due to hostile action or forced abandonment.	No upper limits should be placed on justified claims. The Secretariat should recommend appropriate measures for handling such claims.	The General Assembly may wish to consider a financial limitation on contingent-owned equipment claims resulting from losses due to hostile action or forced abandonment.
15. United Nations responsibility regarding loss of or damage to equipment during transportation exceeds 10 per cent of the generic fair market of the item of equipment.	The loss or damage issue be clarified and implemented by the Secretariat to ensure troop-contributing country is reimbursed when significant damage (10 per cent or more of the generic fair market value of individual items of equipment) occurs during transportation.	A study on the practicality and administrative costs of this recommendation prior to implementation. In most cases, damage should be covered by shippers' insurance
16. Universality of mission factors — requirement for review of mission factors in the third month of the mission.	A review of mission factors should be conducted in the third month following the establishment of the mission.	Review in the third month is not necessary. Chief administrative officer currently has ability to request a review when significant changes occur.

Issue	*Phase IV Working Group's recommendations (A/C.5/52/39)*	*Secretariat recommendations (A/53/465)*
17. Dual payments for accommodation and tentage.	Current provision for $56 dual payment ($20 tentage and $36 accommodation) be continued if troops are not provided hard wall accommodations after six months in mission. Secretariat can request waiver for short duration missions where conditions are clearly impracticable and not cost effective.	Recommends that only the accommodation rate of $36 per man/month be paid if suitable accommodations are not provided after the six month period.
18. Additional United Nations financial responsibilities to cover "no-fault" losses in the event the United Nations is not meeting its full liability under the leasing system.	This issue was not addressed by the Phase IV Working Group as indicated in para. 31 of A/50/807. The previous Working Groups proposed that, in the event of the United Nations not meeting its full liability under the leasing system, total responsibility for loss or damage for "no-fault" incidents would revert to the Organization.	The Secretariat suggests that the General Assembly review its decision as it constitutes a double payment in that an insurance factor was included in the rates to cover "no-fault" incidents.
19. Basis of reimbursement for equipment lost or damaged as a result of hostile action or forced abandonment.	The Working Group recommended the continuation of the current policy which tacitly approves the generic fair market value (less applicable dry lease payments) as the basis for the reimbursement calculation.	The Secretariat believes that the basis for the reimbursement should be the lesser of the generic fair market value (less applicable dry lease payments) or residual value.
20. Review of major equipment standards — proposed date for Phase V Working Group review.	The Working Group recommended the Secretariat convene the Phase V Working Group in 2001 to review and validate reimbursement rates, procedures and standards.	The Secretariat initially recommended the Phase V Working Group be convened in 1999. However, owing to the delays in the review of the report of the Secretary-General (A/53/465) and approval of the Phase IV Working Group recommendations, the Secretariat now concurs with the recommendations for a Phase V conference and rate review in 2001. The reduced staff assigned to work on contingent-owned equipment is currently concentrating on backlog claims and will require additional time to prepare for the conference.